

Remarks

Reconsideration is respectfully requested.

Claim Status

Claims 1-20 are pending in the Application.

Claim 1 was objected to. Claim 1 has been canceled.

Claims 2-15 were rejected under 35 U.S.C. § 112, second paragraph.

Claims 1 and 16-17 were rejected under 35 U.S.C. § 102(a) as anticipated by Swinton (US 6,398,108).

Claims 2-6 and 18 were rejected as obvious pursuant to 35 U.S.C. § 103(a) over Swinton in view of Koshida (US 5,172,643).

Claim 7 was rejected as obvious pursuant to 35 U.S.C. § 103(a) over Swinton/Koshida in view of Ebihara (US 4,787,617).

Claim 8 was rejected as obvious pursuant to 35 U.S.C. § 103(a) over Swinton/Koshida/Ebihara in view of Adelberger (US 4,462,509).

Claims 9-11 were rejected as obvious pursuant to 35 U.S.C. § 103(a) over Swinton/Koshida/Ebihara/Adelberger in view of Meyer (US 5,797,599).

Claims 12-15 were indicated allowable if written in an independent form. Claim 12 has been written in an independent form. Thus, Applicants respectfully submit that claim 12 is now allowable.

Claims 19-20 have been added. Entry of the amendment is respectfully requested. No new matter has been added.

The 35 U.S.C. § 112, second paragraph, rejections

Applicants respectfully submit that claim 4 provides proper antecedent basis for “the pivot axis”. Claim 4 recites that “the second arm end includes a pivot axis, wherein the arm is operative to pivot about the pivot axis”.

Claims 2, 7, 12, and 13 were amended as requested. Therefore, it is respectfully requested that the rejections be withdrawn.

The 35 U.S.C. § 103(a) Rejections

Applicants respectfully submit that the references, taken alone or in combination, do not teach or suggest the specifically recited features and relationships.

Claim 2

It would not have been obvious to one skilled in the art to have modified Swinton (as alleged by the Office) to include both a slot in the link (901) and a pin on the link (900), where the pin would be movable in the slot. Nor does the Action explain how Swinton could be modified in the manner alleged.

Swinton’s link (900) already has a pin (94’) (col. 8, lines 10-12). The pin (94’) is in a hole (900A) in the link (900). The pin (94’) is also fixed to a panel (70) (e.g., Figure 15). The pin (94’) needs to remain fixed because it “acts as a fulcrum for the shutter” (20B) (col. 8, lines 11-12). That is, the fixed pin (94’) is the pivot point for the shutter (20B). The structure and operation of Swinton’s shutter arrangement require pivoting and do not permit sliding. Thus, it would not have been obvious to have had Swinton’s pin (94’) be “moveable within a slot”, as alleged by the Office. It follows that it would not have been obvious to one having ordinary skill

in the art to have modified Swinton with the teaching of Koshida as alleged to have produced the recited apparatus.

Nor do the structure and operation of Swinton's shutter arrangement permit the link (901) to have a slot, as alleged by the Office. Swinton requires the link (901) to be attached to the link (900) at a pivot connection (903) (col. 8, lines 5-6). The alleged modification by the Office would not enable the required pivot connection. Again, it would not have been obvious to have modified Swinton with Koshida as alleged to have produced the recited apparatus.

Furthermore, Koshida's shutter drive operation is incompatible with Swinton's shutter drive operation. For example, Koshida's shutter actuation is rotationally based via a motor (38), whereas Swinton's shutter actuation is axially based via a solenoid (S). Again, it would not have been obvious to have modified Swinton as alleged to have produced the recited apparatus.

Furthermore, the alleged modification to Swinton would destroy the utility and operability of the specifically disclosed Swinton apparatus. The alleged modification to Swinton would destroy Swinton's ability to function as Swinton requires. An obviousness rejection cannot be based on modifying a reference if making the modification would result in destroying the utility or advantage of the device disclosed in the reference. *In re Fine*, 5 USPQ2d 1598-99 (Fed. Cir. 1988). *In re Kumar*, Case No. 04-1074 Fed. Cir. August 15, 2005.

The only suggestion for the recited features and relationships is found in Applicants' own novel disclosure. It follows that the rejections are based solely on hindsight reconstruction of Appellants' claimed invention, which is legally impermissible and does not constitute a valid basis for a finding of obviousness. *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992).

The Office has not established a *prima facie* case of obviousness. The applied prior art is devoid of any such teaching, suggestion, or motivation for combining features of the prior art so as to produce Applicants' recited invention. Nor would the alleged modification to Swinton have resulted in the recited invention.

Claim 7

The Office alleges that it would have been obvious to modify Swinton's belt pulleys (42, 44) with Ebihara's accumulating wheel (13). Applicants respectfully disagree.

Ebihara has a single accumulating wheel (13), not the recited "plural rollers". Nor does the wheel (13) support a belt, like Swinton's belt pulleys (42, 44). Nor is the wheel (13) located adjacent the housing outlet (2). Rather, the wheel (13) is for "accumulating", not presenting. Nor does the wheel (13) have an outer circumferential surface with "a center portion and tapering portions", where "the center portion is located between tapering portions" and "the diameter of each tapering portion narrows in a direction extending away from the center portion".

Conversely, the wheel (13) appears to have a spiral twisting surface, as evidenced by Ebihara's Figure 3. The Office has not established a *prima facie* case of obviousness.

Additionally, Swinton teaches against using rollers having an outer circumferential surface with a center portion and tapering portions in the manner recited. The relied upon pulleys (42, 44; Figures 3 and 7) in Swinton likely correspond to the pulleys (58, 60) of Swinton's Figures 14 and 15. Swinton teaches that the outer surface of these pulleys (58, 60) has a larger portion (instead of a narrower portion) located away from the center portion. The pulley's (58, 60) outer circumferential surface arrangement (with a larger portion extending away from the center portion) is needed for belt support. Thus, the alleged modification by the Office (using a smaller

extending away portion) would be directly contrary to Swinton's required belt support arrangement.

Thus, it would not have been obvious to one having ordinary skill in the art to have modified Swinton/Koshida with the teaching of Ebihara as alleged to have produced the recited apparatus. Nor would the alleged modification to Swinton/Koshida have resulted in the recited invention.

Claim 18

Applicants' remarks in support of the patentability of claim 2 are incorporated herein by reference. For reasons already discussed, Swinton/Koshida does not render claim 18 obvious.

Nor would it have been obvious to have modified Swinton to have included a "slot is angled upward". Nor does the Action explain how Swinton could be modified as alleged.

Furthermore, where does Koshida teach or suggest actuation of the alleged lever (41)? Where does Koshida teach or suggest that the alleged lever (41) causes the pin (42) to move? Conversely, Koshida teaches that (rotation of) the pin (42) causes the link (41) to move (col. 4, lines 59-68; col. 6, lines 7-10 and 30-32).

The Office has not established a *prima facie* case of obviousness. It would not have been obvious to one having ordinary skill in the art to have modified Swinton with Koshida as alleged to have produced the recited apparatus.

The Dependent Claims

Each of the dependent claims depends directly or indirectly from an independent claim. Thus, it is asserted that the dependent claims are allowable on at least the same basis.

Furthermore, each of the dependent claims additionally recites specific features and relationships that patentably distinguish the claimed invention over the applied art. None of the references, taken alone or in combination, discloses or suggests the features and relationships that are specifically recited in the dependent claims. Thus, it is respectfully submitted that the dependent claims are further allowable due to the recitation of such additional features and relationships.

Fee For Extra Independent Claim

Twenty (20) claims are pending. Four (4) independent claims are pending. Please charge the fee associated with the submission of one additional independent claim (\$200) and any other fee due to Deposit Account 09-0428.

Conclusion

Applicants respectfully submit that this application is in condition for allowance. The undersigned is willing to discuss any aspect of the Application by telephone at the Office's convenience.

Respectfully submitted,


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